

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).

Application 16-08-006
(Filed August 11, 2016)

**RESPONSE OF THE COUNTY OF SAN LUIS OBISPO TO
A.16-08-006**

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Dated: October 6, 2016

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In accordance with Administrative Law Judge Allen’s ruling granting the County of San Luis Obispo’s (County) motion for leave to late-file its response to A.16-08-006,¹ and in accordance with Rule 2.6(a) of the Commission’s Rules of Practice and Procedure, the County submits its response to Pacific Gas and Electric Company’s (PG&E) application for approval of the retirement of Diablo Canyon Power Plant, implementation of the related Joint Proposal, and recovery of the associated costs. While the County does not oppose the plan to retire Diablo Canyon in 2025, the Application and Joint Proposal define the scope of retirement-related issues too narrowly and underestimate the value of PG&E’s unitary tax. These issues must be addressed in the comprehensive plan to retire Diablo Canyon.

I. INTRODUCTION

Diablo Canyon has been a cornerstone of the County’s economy and an integral part of its community for over 30 years. The plant directly employs over 1,500 people and supports over 3,358 local jobs. PG&E pays approximately \$22 million in annual unitary (or

¹ ALJ Allen granted the County’s motion during the October 6, 2016 prehearing conference in this proceeding.

property) tax associated with Diablo Canyon, which is apportioned among the County, school districts, cities, and special districts. Diablo Canyon's desalination plant has the potential to provide water to 4,000 homes in the County, and PG&E agreed in 2015 to provide water from the desalination plant to help reduce the impact on County water resources from fighting wildfires. The emergency response and safety measures PG&E has developed for Diablo Canyon are critical to ensuring the safety of County residents for as long as spent fuel remains at the Diablo Canyon site. And the 12,000 acres of PG&E-owned land surrounding Diablo Canyon are conserved for habitat preservation, agriculture, and public use under PG&E's Land Stewardship Program. The retirement of Diablo Canyon will fundamentally alter the local community and economy.

Diablo Canyon also imposes unique burdens on every resident and taxpayer of the County. These burdens include living with the risk of a catastrophic event occurring at Diablo Canyon. The public health and safety, economic, and environmental consequences of a release of radioactive materials from Diablo Canyon would be devastating to County residents. The people of the County have a direct and immediate interest in the process by which Diablo Canyon will be decommissioned, and particularly in the continuance of emergency preparedness programs at levels sufficient to protect against the inherent risks associated with a nuclear power plant for as long as radioactive materials remain at the Diablo Canyon site.

Despite the fact that Diablo Canyon provides significant financial and safety resources to the County and its residents, offers a potential source of water for the County, will likely continue to provide vast conservation lands on California's Central Coast, and imposes unique burdens on County residents, the County was not included in the process of negotiating and drafting the Joint Proposal. The County only learned that PG&E intended to retire Diablo

Canyon on June 21, 2016, when PG&E issued its press release. As a result, the scope of retirement-related considerations described in A.16-08-006 and the Joint Proposal are too narrow. PG&E also significantly underestimates the amount it will pay in unitary tax between now and 2025, which renders its \$49.5 million proposed Community Impact Mitigation Program under-funded by approximately \$50 million. The final plan for “the best and most responsible path forward for Diablo Canyon”² must address these oversights in the current proposal.

II. PG&E UNDERESTIMATES THE TAX-RELATED COMMUNITY IMPACTS

The Application and Joint Proposal recognize that Diablo Canyon’s retirement will significantly decrease the unitary tax that has funded the County, school districts, cities, and special districts since Diablo Canyon was first added to PG&E’s tax base. The proposed Community Impacts Mitigation Program is designed to offset the plummeting unitary tax levels associated with Diablo Canyon’s accelerated depreciation between now and 2025³ and to assist the County and community in planning for the economic transition. The \$49.5 million PG&E proposes to distribute to the County during the ramp-down period to levelize its 2016 tax contributions, which will be apportioned according to a yet-to-be-determined methodology, is apparently based on PG&E’s estimate that its 2016 Diablo Canyon property taxes will be approximately \$22 million.⁴

But PG&E has provided no basis for this estimation. The County performed its own analysis of PG&E’s historical and expected unitary tax contributions related to Diablo Canyon: the tax-related impacts will be closer to \$100 million than \$49.5. PG&E’s cryptic

² A.16-08-006, p. 2.

³ The County’s view that Diablo Canyon’s depreciation is accelerated is based on the fact that PG&E originally planned to relicense and operate the plant through the new licensing period, during which time capital additions would contribute to the plant’s book value and require appropriate unitary tax payments. The County understands that PG&E’s depreciation schedule for Diablo Canyon has always contemplated full depreciation by 2025.

⁴ A.16-08-006, Direct Testimony of Thomas P. Jones, p. 8-4 and fn. 6 (PG&E Direct (Jones)).

disclaimer that “the payments are a proxy number for an appropriate customer contribution to the community transition in preparation for decommissioning and are not meant to represent actual or substitute tax payments”⁵ further confuses the basis for PG&E’s \$49.5 million figure. PG&E proposes to use these funds to levelize its estimated 2016 property tax payment of \$22 million through 2025, but also disclaims that the payment bears any relation to actual or substitute tax payments. Not only has PG&E underestimated its unitary tax impact by almost \$50 million, but there is not enough information in the Application or supporting testimony to understand how PG&E performed its calculations or what the funds are intended to represent.

III. PG&E HAS NOT ADDRESSED THE ECONOMIC IMPACTS OF CLOSING DIABLO CANYON BEYOND THE UNITARY TAX AND EMPLOYEE PROGRAMS

The 2013 economic impact study on Diablo Canyon, which is provided as an attachment to PG&E’s direct testimony on its Community Impacts Mitigation Program, shows how central the power plant is to the local economy. Diablo Canyon directly employs over 1,500 people in well-paying, highly skilled jobs and supports over 3,358 local jobs; Diablo Canyon is the largest private employer in the area and the fifth largest overall. Diablo Canyon provides significant financial stability to the local economy, as its employment numbers are not seasonal or subject to economic cycles or the vagaries of the State budget. Diablo Canyon spends millions each year on local goods and services. In 2011, local expenditures totaled approximately \$21.8 million, due to PG&E’s policy of sourcing goods and services locally whenever possible. The local economic impact of the plant is approximately \$1 billion annually.⁶ PG&E also makes significant charitable donations each year to local nonprofits and its employees donate thousands of volunteer hours to programs that serve youth, seniors,

⁵ PG&E Direct (Jones), p. 8-4 (lines 9–12).

⁶ See *Economic Benefits of Diablo Canyon Power Plant: An Economic Impact Study*, Attachment A, PG&E Direct (Jones), Chapter 8, pp. 16–20 (“Economic Impact Study”).

education, the arts, and the environment. The study indicates that the local economy will lose \$1.46 billion in 2027 alone after Diablo Canyon closes.⁷

The County, as the host site for Diablo Canyon, has reaped the benefits and shouldered the burdens that come with hosting a nuclear power plant. The benefits are high salaries, recession-resistant jobs, the unitary tax, and PG&E's contribution to the local economy. When Diablo Canyon closes, the County will be left with only the burdens. In addition to the attendant risks associated with stored nuclear fuel, the County has likely realized a lower overall economic advantage as result of hosting Diablo Canyon. Significant amounts of land surrounding the plant cannot be developed, and the harbor and docking facilities at Avila Beach are subject to U.S. Coast Guard access restrictions. The prospect of living close to a nuclear power plant has also likely deterred people from moving to the area. The local economy is largely oriented toward Diablo Canyon and will suffer a large blow when the plant closes.

The economic impact study quantifies this loss—\$1.46 billion in 2027, \$42.5 billion over the next three decades⁸—but PG&E has not addressed the extent of the impact in a meaningful way. PG&E provides the economic impact study without comment, and repeats the facts and figures showing how much money PG&E injects into the local economy each year without extending its discussion of remediation beyond the unitary tax and employee retention and training programs. The narrow scope of PG&E's discussion of the local economic impacts is hard to understand, particularly in light of the extensive impacts shown in the study. PG&E has provided no insight into its view of the economic impact study, which impacts were considered for remediation, and why the end result in PG&E's testimony and the Joint Proposal is so cursory. The County does not suggest that PG&E must continue funding the local economy

⁷ Economic Impact Study, p. 49.

⁸ *Ibid.*

at the levels associated with an operational power plant once Diablo Canyon has closed, but the County does require that PG&E engage in a discussion sufficient to demonstrate that the entirety of Diablo Canyon's economic impacts have been taken into account.

IV. THE DESALINATION PLANT SHOULD CONTINUE TO OPERATE AFTER DIABLO CANYON IS RETIRED

The Diablo Canyon desalination plant is the largest operating seawater desalination plant on the Central Coast. The plant is licensed to produce 1.5 million gallons of water a day but currently produces about 600,000 gallons, or 40% of its capacity. On May 20, 2015, PG&E and the County entered into a water-sharing agreement under which PG&E would provide desalinated water produced at Diablo Canyon to the Office of Emergency Services to reduce the impact on County water supplies of fighting wildfires. At that time, PG&E and the County also began studying the feasibility of using the desalination plant's output to supplement the County's strained water resources. The project was expected to take two years and up to \$36 million to complete; the costs would be borne by the customers using the water. As recently as March 22, 2016, the County Board of Supervisors voted unanimously to spend \$900,000 to undertake the planning and permitting for the expansion project.

Three months after this vote, PG&E announced its intention to shutter Diablo Canyon. The Joint Proposal accompanying the closure announcement, then as now contained no mention of the desalination plant, the expansion plan, or the County's critical water needs as a potential impact of the power plant closure. In a separate forum, PG&E announced that the desalination plant expansion project was also shut down. According to a PG&E spokesman, the Diablo Canyon closure "limits [PG&E's] use of desalination facilities to support plant

operations” and it was therefore “no longer viable to proceed with sales of desalinated water to the county.”⁹

Neither A.16-08-006 nor the Joint Proposal address the desalination plant, which is consistent with PG&E’s apparent view that the plant cannot serve the County if Diablo Canyon is winding down. But PG&E’s conclusion overlooks the fact that Diablo Canyon will continue to operate and be staffed at current levels until 2023 under the Employee Retention Program, and that decommissioning and dismantling activities will continue to take place at Diablo Canyon for decades following the shutdown date. PG&E intends to obtain a new State Lands Commission lease for Diablo Canyon’s intake and discharge that covers the entire decommissioning period.¹⁰ Spent fuel will likely be stored onsite well into the next century, which will require a certain level of staff and operational facilities. While Diablo Canyon will not produce power after its 2025 shutdown date, it will continue to be a hub of activity for a long time. Those activities will require desalinated and potable water. PG&E’s proposal does not include a plan to obtain water from other sources during the ramp-down and decommissioning period—PG&E does not address water at all.

PG&E’s failure to acknowledge its partnership with the County to expand the output of desalination plant in connection with its application to close Diablo Canyon, particularly when the closure will “kill” PG&E’s agreement with the County, is surprising. PG&E has provided no analysis of the reduced output or cost associated with operating the desalination plant during the ramp-down and decommissioning period. PG&E has offered no data to support its conclusion that its water-sharing partnership with the County is no longer

⁹ *The Tribune, Diablo Canyon Closure Kills Desalination Plant Expansion* (June 21, 2016), available at <http://www.sanluisobispo.com/news/local/article85122997.html> (last visited September 14, 2016).

¹⁰ Joint Proposal, section 6.1.1.

viable. The County does not share PG&E's view that the desalination plant should now be unavailable to help the County and local firefighters, particularly as PG&E has failed to make an argument for this unavailability, let alone provide any support.

V. **DIABLO CANYON'S EMERGENCY PLANNING AND RESPONSE
ACTIVITIES MUST CONTINUE AT CURRENT LEVELS**

The importance of continuing the emergency planning and response activities for Diablo Canyon until the last spent fuel rod is placed in permanent storage by the Department of Energy cannot be emphasized enough. The County supports PG&E's proposal to continue the existing safety programs and procedures through the decommissioning period but is concerned that A.16-08-006 and the Joint Proposal lack specificity as to which activities will continue, to what level they will be funded, and to what conditions they will be subject. While PG&E intends to present a more detailed roadmap in its site-specific decommissioning study by 2018, the County believes the emergency procedures should be addressed first in connection with the Joint Proposal.

PG&E states that it proposes to continue providing and supporting emergency planning and response activities "that are appropriate to and informed by the reduced risks that remain as decommissioning progresses."¹¹ There is no discussion in A.16-08-006, the supporting testimony, or the Joint Proposal of what reduction in risk may occur during decommissioning, nor is it clear that the decommissioning-period risks will be much reduced. As long as spent fuel is stored on site there will be a risk of a beyond design basis spent fuel accident.¹² While such an accident is statistically unlikely, 10 C.F.R. § 50.47 and Appendix E to

¹¹ PG&E Direct (Jones), p. 8-6 (lines 9–13).

¹² Dry cask storage presents a specific spent-fuel risk. The Joint Proposal provides for a plan to expedite the post-shutdown transfer of spent fuel to dry cask storage as promptly as is technically feasible. (Joint Proposal, p. 13.) Dry cask storage structures are vulnerable to earthquake damage in ways the spent fuel pools are not. The decommissioning-period emergency planning

10 C.F.R. part 50 require licensees to maintain an onsite emergency plan that addresses classification of the emergency, notification to personnel and offsite authorities, and coordination with designated offsite government officials following an event declaration so that offsite authorities may implement protective procedures. This in turn requires offsite authorities to maintain specific response plans for decommissioning-period emergencies. Offsite authorities would also need to staff Emergency Operations Centers and Joint Information Centers to coordinate with PG&E, local government and state agencies, and FEMA to provide the public with ongoing information in the event of a spent fuel accident. Though the likelihood of an accident is low, the emergency plans and personnel must be maintained and ready to deploy until all spent fuel has been removed from the Diablo Canyon site.

The local public agencies responsible for these emergency plans and personnel will incur the associated costs for as long as spent fuel is stored on site, and PG&E must ensure these plans are fully funded throughout the decommissioning period. The County, for instance, cannot maintain a number of the systems and resources currently operated and funded by PG&E, regardless of any decreased revenue mitigation payments. The Early Warning System sirens and direct ring-down phone system, which allows local emergency response and related agencies to communicate directly, are two such systems that are crucial to the public's safety and that the County could not maintain on its own. As it is not certain that the risks associated with Diablo Canyon will be reduced post-shutdown to an extent that would justify cutting back on emergency services, any decommissioning plan must require PG&E to continue to fully fund and maintain the same emergency preparedness equipment, systems, and other resources currently in place.

and response actions should include a plan addressing a beyond design basis earthquake emergency.

VI. THE FUTURE USE OF THE LAND AND WATER SURROUNDING DIABLO CANYON MUST BE ADDRESSED

PG&E and its subsidiaries own approximately 12,000 acres of land surrounding Diablo Canyon. This land has been maintained for public recreation and natural habitat conservation under PG&E's Land Stewardship Program, consistent with the community's wishes that the coastal property be preserved. Portions of the land are also used for agriculture and livestock grazing under PG&E-managed leases. The U.S. Coast Guard has designated the waters within a 2,000-yard radius around Diablo Canyon a permanent security zone.¹³ The security zone protects the plant, transiting vessels, the public, and waterside facilities from potential subversive acts; entry into the security zone requires authorization from the Captain of the Port.¹⁴ The decommissioning of Diablo Canyon will affect the short- and long-term use(s) to which the surrounding land and waters can be put.

A broad discussion of these potential uses is necessary in this proceeding. Neither A.16-08-006 nor the Joint Proposal address the effect decommissioning Diablo Canyon will have on its surrounding environment. Shuttering Diablo Canyon raises a number of questions, including whether PG&E will continue its Land Stewardship Program or whether portions of the land will be sold or put to different use. There are questions about the future use of the harbor and dock at Avila Beach, and whether the Coast Guard will require the security zone to remain in effect. The County believes the Diablo Canyon desalination plant should remain operational and fulfill PG&E's agreement to provide much-needed water to County residents; perhaps other public services can be established at the Diablo Canyon site, as well. The closure of Diablo

¹³ Security Zone; Waters Adjacent to Diablo Canyon Nuclear Power Plant, Avila Beach, CA (March 29, 2002) 67 F.R. 15117, establishing 33 C.F.R. § 165.1155.

¹⁴ 67 F.R. at p. 15118.

Canyon should not be approved without PG&E and the other parties to this proceeding engaging in a robust discussion of the future of the land and infrastructure associated with the power plant.

VII. THE DECOMMISSIONING METHOD SELECTED FOR DIABLO CANYON WILL AFFECT COMMUNITY IMPACTS

PG&E has not yet selected a decommissioning method for Diablo Canyon,¹⁵ but the extent of the impact from shuttering the power plant will be determined in part by PG&E's choice of DECON,¹⁶ ENTOMB,¹⁷ safe storage (SAFSTOR),¹⁸ or some combination of the three. Each decommissioning option has a maximum duration of 60 years, but, as PG&E notes, "[a]t the conclusion of a 60-year dormancy period . . . the site would still require significant remediation to meet the unrestricted release limits for license termination."¹⁹ PG&E's cost estimates for decommissioning Diablo Canyon are based on the DECON option, which would theoretically allow the removal of non-fuel materials from the site before the end of the 60-year period.²⁰ But cost estimates are not a decommissioning plan, and "[t]he actual method or combination of methods selected to decommission Diablo Canyon" will be based on economic,

¹⁵ A.16-03-006, 2017 Nuclear Decommissioning Cost Triennial Proceeding, Prepared Testimony of Francis W. Seymore, pp. 2-21 – 2-22 ("It is not necessary to select a decommissioning method at this time.") (Seymore NDCTP Testimony).

¹⁶ A method of decommissioning in which structures, systems, and components that contain radioactive contamination are removed and disposed of at a commercial waste disposal facility or decontaminated to a level that allows the site to be released for unrestricted use shortly after it ceases operation. (NRC Glossary.)

¹⁷ A decommissioning methodology in which radioactive contaminants are encased in a structurally long-lived material, such as concrete. The structure is maintained and surveillance continued until the entombed radioactive waste decays to a level permitting termination of the license, which must be maintained by the licensee during the entombment period, and unrestricted release of the property. (NRC Glossary.)

¹⁸ A decommissioning method in which a nuclear facility is placed and maintained in a condition that allows the facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use. (NRC Glossary.)

¹⁹ Seymore NDCTP Testimony, p. 2-20 (lines 26–29).

²⁰ *Id.* at p. 2-22 (lines 5–17).

engineering, and environmental considerations²¹ and will be determined at some point before PG&E files its 2018 Nuclear Decommissioning Cost Triennial Proceeding application.²²

Until the site-specific decommissioning plan is prepared, however, it is uncertain what infrastructure will remain in place at the Diablo Canyon site, what level of emergency services and personnel will be required to adequately maintain that infrastructure, and what impact the decommissioning method will have on the surrounding land and community. Neither A.16-08-006 nor the Joint Proposal acknowledge that the decommissioning period and activities will be affected by the decommissioning method(s); this omission deepens the uncertainty regarding the efficacy of the Joint Proposal to adequately address the impacts of shutting down Diablo Canyon. At a minimum, PG&E should address the potential impacts associated with each decommissioning method on plans to maintain emergency procedures, staffing and security levels at Diablo Canyon, and use of and access to the surrounding lands.

VIII. CONCLUSION

Application 16-08-006 and the accompanying Joint Proposal provide a narrow view of the issues associated with decommissioning Diablo Canyon. PG&E has underestimated its unitary tax obligation to the County and has failed to address the full scope of the local economic impacts associated with closing Diablo Canyon, which raises questions about the efficacy of PG&E's community impact analysis. PG&E has abandoned its pledge to use Diablo Canyon's desalination plant to provide necessary water to local firefighters and County residents; PG&E has provided no explanation and instead presented the unavailability of the desalination plant as a *fait accompli*. While PG&E proposes to maintain emergency preparedness systems throughout the decommissioning period, it is not clear what level of funding will be provided or

²¹ Seymore NDCTP Testimony, p. 2-21 (lines 31–34).

²² Joint Proposal, Section 5.4.1; A.16-08-006, p. 12.

which systems will be maintained. The future use of the 12,000 acres surrounding the plant, as well as the harbor and facilities at Avila Beach, is conspicuously absent from the Application and Joint Proposal. And the effect that PG&E's chosen decommissioning methodology (or methodologies) will have on the financial, community, and environmental impacts goes unacknowledged. Application 16-08-006 and the Joint Proposal, as currently written, lack fundamental information that is central to understanding the effects of shuttering Diablo Canyon. These omissions should be addressed before a final decision is issued in this proceeding.

Respectfully submitted October 6, 2016 at San Francisco, California.

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